

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LITCHFIELD COUNTY CELLULAR, INC.	)	
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT ADDITIONAL	)	95-158
CELL FACILITIES IN KENTUCKY RURAL SERVICE AREA	)	
NO. 11 (ASHER CELL SITE)	)	

O R D E R

On April 7, 1995, Litchfield County Cellular, Inc. ("Litchfield County Cellular") submitted an application seeking a Certificate of Public Convenience and Necessity to build a cellular radio telecommunications tower in Rural Service Area Number 11 ("RSA No. 11"). RSA No. 11 includes Bell, Clay, Harlan, Leslie, Knox and Whitley counties. Litchfield County Cellular has requested authorization to construct a cell site in Leslie County. Litchfield County Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 11 in Case No. 94-006.<sup>1</sup>

The proposed cell site consists of a 200-foot or less guyed antenna tower to be located on a ridge crest approximately 7,500 feet south of the intersection of U. S. Highway 421 and State Route 1780, approximately two miles south of Asher, Leslie County, Kentucky ("the Asher cell site"). The coordinates for the Asher

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<sup>1</sup> Case No. 94-006, The Joint Application of Contel Cellular of Kentucky B, Inc. and Litchfield County Cellular, Inc. for Approval to Transfer and Acquire Control of the Cellular Telephone Utility in Kentucky Rural Service Area No. 11.

cell site are North Latitude 37° 01' 25" by West Longitude 83° 24' 23".

Litchfield County Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Asher cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Asher cell site's construction is exempt from local zoning ordinances; however, Litchfield County Cellular has notified the Leslie County Judge/Executive of the proposed construction. Litchfield County Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") for the construction and operation of the Asher cell site. The FAA has approved the site while the KAZC application is still pending. The only persons who own property within a 500 foot radius of the proposed cell site are the persons from whom Litchfield County Cellular leases the property.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Litchfield County Cellular should notify the

Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Litchfield County Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Litchfield County Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Asher cell site in RSA No. 11 under its previously approved tariff.

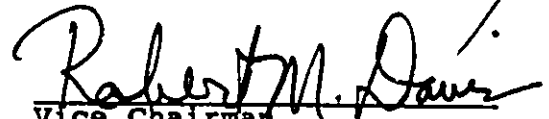
IT IS THEREFORE ORDERED that:

1. Litchfield County Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Asher cell site.
2. Litchfield County Cellular shall file a copy of the final decision regarding the pending KAZC application for this cell site within 10 days of receiving this decision.
3. Litchfield County Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 12th day of May, 1995.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director